

OFFICE OF THE CLERK

MARCIA M. WALDRON
CLERK



UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
601 MARKET STREET
PHILADELPHIA, PA 19106-1790
Website: www.ca3.uscourts.gov

TELEPHONE
215-597-2995

April 28, 2016

Marvin Mathis
New Jersey State Prison
P.O. Box 861
Trenton, NJ 08625

RE: Marvin Mathis v. Attorney General New Jersey, et al
Case Number: 16-2083
District Case Number: 2-15-cv-02092

Effective December 15, 2008, the Court implemented the Electronic Case Files System. Accordingly, attorneys are required to file all documents electronically. See 3d Cir. L.A.R. 113 (2008) and the Court's CM/ECF website at www.ca3.uscourts.gov/cmecf-case-managementelectronic-case-files.

To All Parties:

Enclosed is case opening information regarding the above-captioned appeal filed by **Marvin Mathis**, docketed at No. **16-2083**. All inquiries should be directed to your Case Manager in writing or by calling the Clerk's Office at 215-597-2995. This Court's rules, forms, and case information are available on our website at <http://www.ca3.uscourts.gov>.

On December 1, 2009, the Federal Rules of Appellate and Civil Procedure were amended modifying deadlines and calculation of time. In particular those motions which will toll the time for filing a notice of appeal under Fed.R.App.P. 4(a)(4), other than a motion for attorney's fees under Fed.R.Civ.P. 54, will be considered timely if filed no later than 28 days after the entry of judgment. Should a party file one of the motions listed in

Fed.R.App.P 4(a)(4) after a notice of appeal has been filed, that party must immediately inform the Clerk of the Court of Appeals in writing of the date and type of motion that was filed. The case in the court of appeals will not be stayed absent such notification.

Appellant

Docketing fees in the amount of \$505.00 must be paid to the District Court upon filing of a Notice of Appeal. If you cannot afford to pay the docketing fees, you must file a copy of a Motion for Leave to Proceed In Forma Pauperis, together with an affidavit of poverty (form enclosed) and a certificate of service.

You must pay the docketing fees or file the Motion for Leave to Proceed In Forma Pauperis within **fourteen (14) days** from the date of this letter. **If you do not pay the docketing fees or file the Motion for Leave to Proceed In Forma Pauperis within fourteen (14) days, your case may be dismissed without further notice. 3rd Cir. LAR Misc. 107.**

Counsel for Appellee

As counsel for Appellee(s), you must file:

1. Application for Admission (if applicable);
2. Appearance Form
3. Disclosure Statement (except governmental entities)

These forms must be filed within **fourteen (14) days** from the date of this letter.

Attached is a copy of the full caption as it is titled in the District Court. Please review the caption carefully and promptly advise this office in writing of any discrepancies.

Very truly yours,

Marcia M. Waldron

Marcia M. Waldron,
Clerk

By:

/s/Marianne, Case Manager
267-299-4911

Enclosures:

Affidavit of Poverty
Information for Pro Se Litigants

cc:

Meredith L. Balo, Esq.

Kimberly L. Donnelly, Esq.

UNITED STATES COURT OF APPEALS
for the THIRD CIRCUIT

Harvin Hattis

v.

Attorney General
New Jersey, et al

No. 16-2053

District Case Number:
2-15-CV-02092

**AFFIDAVIT ACCOMPANYING MOTION
FOR PERMISSION TO APPEAL IN FORMA PAUPERIS**

Affidavit in Support of Motion

I swear or affirm under penalty of perjury that, because of my poverty, I cannot prepay the docket fees of my appeal or post a bond for them. I believe I am entitled to redress. I swear or affirm under penalty of perjury under United States laws that my answers on this form are true and correct. (28 U.S.C. § 1746; 18 U.S.C. § 1621.)

Signed: Harvin Hattis

Instructions

Complete all questions in this application and then sign it. Do not leave any blanks: if the answer to a question is "0," "none," or "not applicable (N/A)," write that response. If you need more space to answer a question or to explain your answer, attach a separate sheet of paper identified with your name, your case's docket number, and the question number.

Date: May 18, 2016

My issues on appeal are:

GROUND ONE

THE STATE COURT RULING THAT PETITIONER WAS NOT DEPRIVED OF HIS SIXTH AMENDMENT CONSTITUTIONAL RIGHT TO EFFECTIVE ASSISTANCE OF TRIAL COUNSEL, COUNSEL'S FAILURE TO PRESENT EVIDENCE OF PETITIONER'S LOW INTELLECTUAL FUNCTIONING IN ORDER TO ESTABLISH THAT PETITIONER'S WAIVER OF HIS MIRANDA RIGHTS WAS NOT KNOWING AND INTELLIGENT

GROUND TWO

THE STATE COURT RULING THAT PETITIONER WAS NOT DEPRIVED OF HIS SIXTH AMENDMENT CONSTITUTIONAL RIGHT TO EFFECTIVE ASSISTANCE OF TRIAL COUNSEL, COUNSEL'S FAILURE TO PRESENT IN MITIGATION OF SENTENCE THE EVIDENCE OF PETITIONER'S LOW INTELLECTUAL FUNCTIONING AND PERSONALITY DISORDER

GROUND THREE

THE STATE COURT'S RULING THAT PETITIONER WAS NOT DEPRIVED OF HIS SIXTH AMENDMENT CONSTITUTIONAL RIGHTS TO EFFECTIVE ASSISTANCE OF COUNSEL AND COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR

GROUND FOUR

THE STATE COURT'S RULING THAT PETITIONER WAS NOT DEPRIVED OF HIS SIXTH AMENDMENT CONSTITUTIONAL RIGHTS TO EFFECTIVE ASSISTANCE OF COUNSEL AND COMPULSORY PROCESS FOR OBTAINING WITNESSES IN HIS FAVOR BY TRIAL COUNSEL, COUNSEL'S FAILURE TO INVESTIGATE AND PRESENT EVIDENCE OF PETITIONER'S COGNITIVE LIMITATIONS AND HIS STATUS AS A SPECIAL EDUCATION STUDENT DURING THE MIRANDA HEARING AND AT TRIAL

GROUND FIVE

THE STATE COURT'S RULING THAT PETITIONER WAS DEPRIVED OF HIS SIXTH AMENDMENT CONSTITUTIONAL RIGHT EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL, COUNSEL'S FAILURE TO DISCOVER AND RAISE ON DIRECT APPEAL, TRIAL COUNSEL'S C FAILURE TO PRESENT EVIDENCE OF PETITIONER'S COGNITIVE LIMITATIONS AND HIS STATUS AS A SPECIAL EDUCATION STUDENT DURING THE MIRANDA HEARING AND AT TRIAL

GROUND SIX

THE STATE COURT'S RULING THAT PETITIONER WAS NOT DEPRIVED OF HIS SIXTH AMENDMENT CONSTITUTIONAL RIGHT TO EFFECTIVE ASSISTANCE OF APPELLATE COUNSEL, COUNSEL'S FAILURE TO MOUNT AND ARGUE THE ISSUES RAISED HEREIN BEFORE THE APPELLATE DIVISION ON DIRECT APPEAL. APPELLATE COUNSEL ALSO FAILED TO ARGUE THE TOTALITY OF THE CIRCUMSTANCES TEST MANDATED IN SCHENKOTH V. BUSTAMANTE THE CONFESSION ALLEGEDLY GIVEN BY PETITIONER WERE NOT VOLUNTARILY NOR KNOWINGLY

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ 0	\$ 0	\$ 0	\$ 0
Self-employment	\$ 0	\$ 0	\$ 0	\$ 0
Income from real property (such as rental income)	\$ 0	\$ 0	\$ 0	\$ 0
Interest and dividends	\$ 0	\$ 0	\$ 0	\$ 0
Gifts	\$ 0	\$ 0	\$ 0	\$ 0
Alimony	\$ 0	\$ 0	\$ 0	\$ 0
Child support	\$ 0	\$ 0	\$ 0	\$ 0
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$ 0	\$ 0	\$ 0
Disability (such as social security, insurance payments)	\$ 0	\$ 0	\$ 0	\$ 0
Unemployment payments	\$ 0	\$ 0	\$ 0	\$ 0
Public-assistance (such as welfare)	\$ 0	\$ 0	\$ 0	\$ 0
Other (specify):	\$ 0	\$ 0	\$ 0	\$ 0
Total monthly income:	\$ 0	\$ 0	\$ 0	\$ 0

2. List your employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
D.J.S.P	10.56x 561 Trenton, NJ 08627	February 2015	\$ 70.00

none	none	none	\$ 0
none	none	none	\$ 0

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of employment	Gross monthly pay
none	none	none	\$ 0
none	none	none	\$ 0
none	none	none	\$ 0

4. How much cash do you and your spouse have? \$ none

Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Financial Institution	Type of Account	Amount you have	Amount your spouse has
		\$	\$
		\$	\$
		\$	\$

If you are a prisoner, you must attach a statement certified by the appropriate institutional officer showing all receipts, expenditures, and balances during the last six months in your institutional accounts. If you have multiple accounts, perhaps because you have been in multiple institutions, attach one certified statement of each account.

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

Home	Other real estate	Motor vehicle #1
(Value) \$	(Value) \$	(Value) \$ 0
none	none	Make and year: 0

NONE	NONE	Model: N/A
		Registration #: N/A

Motor vehicle #2	Other assets	Other assets
(Value) \$ 0	(Value) \$ 0	(Value) \$ 0
Make and year: N/A	NONE	NONE
Model: N/A	NONE	NONE
Registration #: N/A	NONE	NONE

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money	Amount owed to you	Amount owed to your spouse
NONE	\$ NONE	\$ NONE
NONE	\$ NONE	\$ NONE
NONE	\$ NONE	\$ NONE
NONE	\$ NONE	\$ NONE

7. State the persons who rely on you or your spouse for support.

Name [or, if a minor (i.e., underage), initials only]	Relationship	Age
NONE	NONE	NONE
NONE	NONE	NONE
NONE	NONE	NONE

8. *Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate.*

	You	Your Spouse
Rent or home-mortgage payment (including lot rented for mobile home)	\$ 0	\$ 0
Are real estate taxes included? Yes No		
Is property insurance included? Yes No		
Utilities (electricity, heating fuel, water, sewer, and telephone)	\$ 0	\$ 0
Home maintenance (repairs and upkeep)	\$ 0	\$ 0
Food	\$ 0	\$ 0
Clothing	\$ 0	\$ 0
Laundry and dry-cleaning	\$ 0	\$ 0
Medical and dental expenses	\$ 0	\$ 0
Transportation (not including motor vehicle payments)	\$ 0	\$ 0
Recreation, entertainment, newspapers, magazines, etc.	\$ 0	\$ 0
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's:	\$ 0	\$ 0
Life:	\$ 0	\$ 0
Health:	\$ 0	\$ 0
Motor vehicle:	\$ 0	\$ 0
Other:	\$ 0	\$ 0
Taxes (not deducted from wages or included in mortgage payments) (specify):	\$ 0	\$ 0
Installment payments		
Motor Vehicle:	\$ 0	\$ 0
Credit card (name):	\$ 0	\$ 0
Department store (name):	\$ 0	\$ 0
Other:	\$ 0	\$ 0
Alimony, maintenance, and support paid to others	\$ 0	\$ 0

Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ 0	\$ 0
Other (specify):	\$ 0	\$ 0
Total monthly expenses:	\$ 0	\$ 0

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

Yes

No

If yes, describe on an attached sheet.

10. Have you paid — or will you be paying — an attorney any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? \$ _____

If yes, state the attorney's name, address, and telephone number:

11. Have you paid-or will you be paying-anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form? Yes No

If yes, how much? \$ _____

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the docket fees for your appeal.

I am a inmate currently confined at New Jersey State Prison. The institutional work program I am assigned at the prison, as inebor, pays 70.00 per month.

13. State the [city and state] of your legal residence.

New Jersey State Prison

P.O. Box 861 08625
TRENTON, N.J.

Your daytime phone number: (n/a) n/a

Your age: 36 Your years of schooling: 10

[Last four digits off] your social-security number: don't know it.

CERTIFICATION OF PRISON ACCOUNT STATEMENT

NOTICE TO PRISONER: You must submit to this Court a certified copy of your prison trust fund account statement (or institutional equivalent) for each institution in which you have been confined for the six-month period immediately preceding the date of this application. 28 U.S.C. §1915(a)(2). If you were housed in more than one institution in the past 6 months, a copy of the certification must be completed by each institution. The following certification from an authorized officer of your institution(s) must accompany the account statement(s):

NOTICE TO PRISON OFFICIALS: Pursuant to the Prison Litigation Reform Act, you will be obligated to forward payments to the appropriate United States District Court if the prisoner herein is granted leave to proceed in forma pauperis. 28 U.S.C. § 1915(b)(2) (April 26, 1996). Pursuant to that statute, once an initial partial fee is paid, the prison official in charge of the prisoner's account must forward monthly payments of 20% of the income credited to the prisoner's account during the preceding month, each time the amount in the account exceeds \$10, until the entire filing and/or docketing fee has been paid.

I certify that the attached trust fund account statement (or institutional equivalent) is true and correct.



Authorized Officer of Institution